

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

ORDER

This is a prisoner civil rights case under 42 U.S.C. § 1983. After screening and summary judgment, a single claim of excessive force remains for trial. The Court denied summary judgment on the affirmative defense of non-exhaustion, and the remaining Defendant has requested an evidentiary hearing on that issue. When summary judgment is denied on non-exhaustion, the district judge must then determine the issue sitting as fact-finder at an evidentiary hearing. *Albino v. Baca*, 747 F.3d 1162, 1166 (9th Cir. 2014). Defendant has requested that the parties receive at least 60 days' notice of the hearing.

///

111

111

111

CONCLUSION

IT IS HEREBY ORDERED that the Motion for Hearing (ECF No. 34) is GRANTED IN PART, and an evidentiary hearing is SCHEDULED for 10:00 a.m., April 10, 2017 in Courtroom 6 of the Bruce R. Thompson Courthouse in Reno, Nevada.

IT IS SO ORDERED.

Dated this 17th day of February, 2017.

ROBERT C. JONES
United States District Judge